

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 505**

Introduced by Mines, 18

Read first time January 17, 2007

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to labor; to amend sections 48-1228, 48-1229,  
2 48-1230, and 48-1232, Reissue Revised Statutes of  
3 Nebraska; to change provisions of the Nebraska Wage  
4 Payment and Collection Act; to harmonize provisions; to  
5 provide an operative date; and to repeal the original  
6 sections.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 48-1228, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           48-1228 Sections 48-1228 to 48-1232 and section 4 of this  
4 act shall be known and may be cited as the Nebraska Wage Payment  
5 and Collection Act.

6           Sec. 2. Section 48-1229, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           48-1229 For purposes of the Nebraska Wage Payment and  
9 Collection Act, unless the context otherwise requires:

10           (1) Employer means the state or any individual,  
11 partnership, limited liability company, association, joint-stock  
12 company, trust, corporation, political subdivision, or personal  
13 representative of the estate of a deceased individual, or the  
14 receiver, trustee, or successor thereof, within or without the  
15 state, employing any person within the state as an employee;

16           (2) Employee means any individual permitted to work by  
17 an employer pursuant to an employment relationship or who has  
18 contracted to sell the goods or services of an employer and to be  
19 compensated by commission. Services performed by an individual for  
20 an employer shall be deemed to be employment, unless it is shown  
21 that (a) such individual has been and will continue to be free  
22 from control or direction over the performance of such services,  
23 both under his or her contract of service and in fact, (b) such  
24 service is either outside the usual course of business for which  
25 such service is performed or such service is performed outside of

1 all the places of business of the enterprise for which such service  
2 is performed, and (c) such individual is customarily engaged in  
3 an independently established trade, occupation, profession, or  
4 business. This subdivision is not intended to be a codification of  
5 the common law and shall be considered complete as written;

6 (3) Fringe benefits includes sick and vacation leave  
7 plans, disability income protection plans, retirement, pension, or  
8 profit-sharing plans, health and accident benefit plans, and any  
9 other employee benefit plans or benefit programs regardless of  
10 whether the employee participates in such plans or programs; and

11 (4) Wages means compensation for labor or services  
12 rendered by an employee, including fringe benefits, when previously  
13 agreed to and conditions stipulated have been met by the employee,  
14 whether the amount is determined on a time, task, fee, commission,  
15 or other basis. ~~Wages includes commissions on all orders delivered  
16 and all orders on file with the employer at the time of termination  
17 of employment less any orders returned or canceled at the time suit  
18 is filed.~~

19 Sec. 3. Section 48-1230, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 48-1230 (1) Except as otherwise provided in this section,  
22 each employer shall pay all wages due its employees on regular  
23 days designated by the employer or agreed upon by the employer and  
24 employee. Thirty days' written notice shall be given to an employee  
25 before regular paydays are altered by an employer. An employer

1 may deduct, withhold, or divert a portion of an employee's wages  
2 only when the employer is required to or may do so by state or  
3 federal law or by order of a court of competent jurisdiction or  
4 the employer has written agreement with the employee to deduct,  
5 withhold, or divert.

6 (2) Except as otherwise provided in section 4 of this  
7 act:

8 (a) Whenever an employer, other than a political  
9 subdivision, separates an employee from the payroll, the unpaid  
10 wages shall become due on the next regular payday or within two  
11 weeks of the date of termination, whichever is sooner; and -

12 (b) Whenever a political subdivision separates an  
13 employee from the payroll, the unpaid wages shall become due within  
14 two weeks of the next regularly scheduled meeting of the governing  
15 body of the political subdivision if such employee is separated  
16 from the payroll at least one week prior to such meeting, or if -  
17 ~~When~~ an employee of a political subdivision is separated from the  
18 payroll less than one week prior to the next regularly scheduled  
19 meeting of the governing body of the political subdivision, the  
20 unpaid wages shall be due within two weeks of the following  
21 regularly scheduled meeting of the governing body of the political  
22 subdivision.

23 Sec. 4. Whenever an employer separates an employee from  
24 the payroll, the unpaid wages constituting commissions shall become  
25 due on the next regular payday following the employer's receipt

1 of payment for the goods or services from the customer from which  
2 the commission was generated, or as agreed to by the parties. The  
3 employer shall provide an employee with a periodic accounting of  
4 outstanding commissions, until all commissions have been paid or  
5 the orders have been returned or canceled by the customer.

6           Sec. 5. Section 48-1232, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           48-1232 If an employee establishes a claim and secures  
9 judgment on such claim under section 48-1231: (1) An amount equal  
10 to the judgment may be recovered from the employer; or (2) if the  
11 nonpayment of wages is found to be willful, an amount equal to  
12 two times the amount of unpaid wages shall be recovered from the  
13 employer. Any amount recovered pursuant to subdivision (1) or (2)  
14 of this section shall be placed in a fund to be distributed to  
15 ~~the common schools of this state.~~ remitted to the State Treasurer  
16 for distribution in accordance with Article VII, section 5, of the  
17 Constitution of Nebraska.

18           Sec. 6. This act becomes operative on January 1, 2008.

19           Sec. 7. Original sections 48-1228, 48-1229, 48-1230, and  
20 48-1232, Reissue Revised Statutes of Nebraska, are repealed.